

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

DWAYNE HEAD-BEY,

Plaintiff,

-against-

9:04-CV-191
(LEK/DRH)

HARLAND SMITH; *et al.*

Defendants.

DECISION AND ORDER

This matter comes before the Court following a Report-Recommendation filed on September 20, 2006, by the Honorable David R. Homer, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and L.R. 72.3(c) of the Northern District of New York. Report-Rec. (Dkt. No. 61).

Within ten days, excluding weekends and holidays, after a party has been served with a copy of a Magistrate Judge's Report-Recommendation, the party "may serve and file specific, written objections to the proposed findings and recommendations," FED. R. CIV. P. 72(b), in compliance with L.R. 72.1. No objections have been raised in the allotted time with respect to Judge Homer's Report-Recommendation. Furthermore, after examining the record, the Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice.

Accordingly, it is hereby

ORDERED, that the Report-Recommendation (Dkt. No. 61) is **APPROVED** and **ADOPTED** in its **ENTIRETY**; and it is further

ORDERED, that Defendants' Motion for summary judgment (Dkt. No. 51) is **GRANTED** and that **JUDGMENT is entered in favor of all Defendants EXCEPT the six John Does, Smith,**

Celenzo, Robertson, Eggleston, Glad, Lotharp, Gonzales, Broadway, Sharrod, Nash, and Hersberger; and it is further

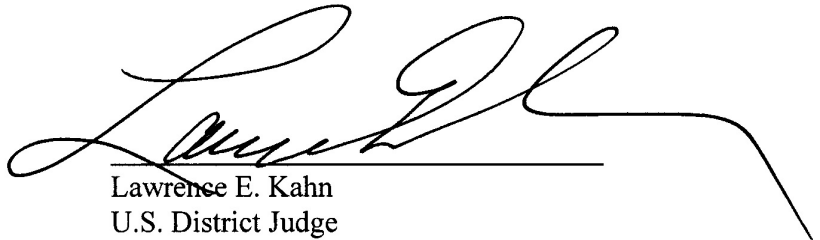
ORDERED, that the Amended Complaint (Dkt. No. 7) is **DISMISSED WITHOUT PREJUDICE** as to the six John Does, Smith, Celenzo, Robertson, Eggleston, Glad, Lotharp, Gonzales, Broadway, Sharrod, Nash, and Hersberger; and it is further

ORDERED, that this action is **TERMINATED** in its **ENTIRETY** as to all Defendants and all claims; and it is further

ORDERED, that the Clerk serve a copy of this Order on all parties.

IT IS SO ORDERED.

DATED: January 26, 2007
Albany, New York



Lawrence E. Kahn
U.S. District Judge